

## Operational Selection Policy OSP40

# Records of the Crown Court and Court of Appeal (Criminal Division)

Created 2006, revised 2014

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## 1 Authority

- 1.1 The National Archives' Records Collection Policy was published in November 2012, and replaces the 2007 Acquisition and Disposal Policy. The Records Collection Policy sets out which records The National Archives will and will not seek to collect for permanent preservation, when they will collect them and where they will be held.
- 1.2 Operational Selection Policies (OSPs) are intended to be working tools for those involved in the selection of public records. This policy may, therefore, be reviewed and revised in the light of comments received from the users of the records or from archive professionals, the department's experience of using the policy, or as a result of newly discovered information. There is no formal cycle of review but we would welcome comments at any time. The extent of any review and revision exercise will be determined according to the nature of the comments received.
- 1.3 If you have any comments on this policy, please email [information.management@nationalarchives.gsi.gov.uk](mailto:information.management@nationalarchives.gsi.gov.uk) or write to:

Information Management and Practice Department  
The National Archives  
Kew, Richmond  
Surrey TW9 4DU

## 2 Scope

- 2.1 The purpose of this policy is to assist Ministry of Justice record staff in selecting records relating to indictable offences for permanent preservation. This paper covers the period from 1972, the first year of operation of the Crown Court system.
- 2.2 This policy concerns the selection of:
- Crown Court indictments
  - Crown Court case files
  - Court of Appeal (Criminal Division) case files

## 3 Selection of records

### 3.1 Crown Court Indictments

- 3.1.1 All Crown Court indictments will be selected for permanent preservation.
- 3.1.2 Some indictments at some courts have been indexed, and these indices are held at the Ministry of Justice, where work is also ongoing to provide further indices. To request a search of the indices, which may help identify an indictment at The National Archives please contact the Departmental Records Officer via email to, [CentralArchivesRecordsRequests@hmcts.gsi.gov.uk](mailto:CentralArchivesRecordsRequests@hmcts.gsi.gov.uk).

### 3.2 Crown Court Case Files

3.2.1 The Crown Courts carry out an initial selection and destruction process when records are seven years old, in accordance with their Record Retention and Disposal Schedule. These files are sent to long term storage until such time as they are due review, when the following Crown Court case files will be selected for permanent preservation:

|    |  |
|----|--|
| 1  | <b>Legal precedent</b> e.g. case was legally significant, catalysing a change in the law or in legal procedures  |
| 2  | <b>Media Interest</b> e.g. attracted national/widespread contemporary public interest, involved eminent or notorious persons, gave rise to widespread and prolonged public concern (measured by the frequency of parliamentary questions, Ministers' cases and media coverage at a national level), was raised as a matter of concern by criminal justice reform organisations |
| 3  | <b>Social history</b> e.g. gives insight into an element of social history e.g. race related or miners' strike   |
| 4  | <b>Official Secrets Act</b> all files where there was a charge under the Official Secrets Acts, treason, treachery, and sedition   |
| 5  | <b>Terrorism</b> e.g. trials of persons connected with terrorist organisations   |
| 6  | <b>Multiple murders</b>  |
| 7  | <b>Multiple manslaughter</b>   |
| 8  | <b>Cases of unlawful penetrative intercourse involving multiple victims</b>  |
| 9  | <b>Large drugs case</b>  |
| 10 | <b>Other unusual or of particular interest case</b>  |
| 11 | <b>Where a related Court of Appeal case is marked R.</b> This marking indicates that the Registrar of Criminal Appeals was taking a personal interest and that the case likely involved a novel point of law or was high profile   |

3.2.2 Unless selected for permanent preservation under one of the above criteria, the following types of case files will be held in the department for up to 100 years, depending on the age of the defendants, and will then be destroyed:

- Single murders and manslaughters
- Infanticide
- Sexual offences
- Cases where the defendant is to be detained at Her Majesty's pleasure (Detention at Her Majesty's Pleasure is the mandatory sentence for a person convicted of murder who was aged 10 or over but under 18 at the time of the offence)

- Cases where the defendant has been sentenced to a hospital order without limit of time (hospital order without limit of time, section 65 or restriction order without limit under section 41 of the Mental Health Act 1983)

### 3.3 Court of Appeal (Criminal Division) Case Files

3.3.1 The Court of Appeal carries out an initial selection and destruction process in accordance with their Record Retention and Disposal Schedule. These files are sent to long term storage until such time as they are due review, when the following Court of Appeal (Criminal Division) case files will be selected for permanent preservation:

|   |   |
|---|---|
| 1 | Where a related Crown Court file has been selected  |
| 2 | The appellant is detained at Her Majesty's pleasure |
| 3 | Home Secretary's references are present             |
| 4 | Attorney General's references are present           |
| 5 | Other unusual or of particular interest case        |

## 4 Implementation

4.1 Implementation of this policy will fall upon the Ministry of Justice and The National Archives.

## 5 Background and Functions

### 5.1 The Crown Court

The Crown Court was established by Section 4 of the Courts Act 1971 and came into being on 1 January 1972, replacing the Courts of Assize and Quarter Sessions and a number of other criminal courts. The Court of Appeal, the High Court and the Crown Court together form the Senior Court (formerly known as the Supreme Court). The constitution and jurisdiction of the Crown Court is now governed by the Senior Courts Act 1981 (formerly known as the Supreme Court Act 1981) which came into operation on 1 January 1982. The jurisdiction and powers of the Crown Court are exercised by a High Court judge, a Circuit judge or a Recorder, either sitting alone or in specific circumstances, with justices of the peace.

Before the inception of the Crown Court in 1971 arrangements were made for records from the Quarter Sessions to be transferred to local record offices, and for those from the Assizes to be transferred to The National Archives.

### JURISDICTION

The Crown Court has jurisdiction to deal with all trials on indictment and to hear appeals, proceedings on committal of a person for sentence and committal following breach of a community order, and original proceedings in civil matters under certain statutes.

## ALLOCATION OF BUSINESS

The Crown Court is a single court, which sits in a number of different locations. It is divided into seven regions (circuits) for administrative purposes, and two High Court judges have special responsibility for each region as Presiding Judges, with the exception of south-eastern region which has three Presiding Judges. The Crown Court has power to conduct its business at any place in England and Wales (subject to directions given by the Lord Chancellor after consulting the Lord Chief Justice). The Presiding Judges in each region, with the concurrence of the Lord Chief Justice in respect of Class 1 and Class 2 cases, will identify the venues of the Crown Court at which the different categories of business shall be disposed of. The Presiding Judges in each region will also issue directions from time to time defining the local justice areas that will normally commit particular classes of work to each Crown Court centre.

## OFFENCES TRIED IN THE CROWN COURT

All cases start in the magistrates' court. Criminal offences are divided into three categories:

- 1) Summary offences, which are dealt with by the magistrates
- 2) Either-way offences, which can be dealt with either by the magistrates' or the Crown Court. A defendant in an 'either way' case who pleads not guilty can request a jury trial and be sent to the Crown Court. Even if they do not request a jury trial, magistrates can decide to send a defendant for trial in the Crown Court if the offence is serious enough. If the defendant pleads guilty to a serious 'either-way' offence, magistrates can commit them to the Crown Court for sentencing
- 3) Indictable-only offences, which are so serious that they must be dealt with by the Crown Court. In these cases the defendant is sent to the Crown Court for trial

Offences tried in the Crown Court are divided into three classes of seriousness:

- 1) Class 1 offences are the most serious and include treason and murder. They are generally heard by a High Court Judge
- 2) Class 2 offences include rape, and are usually heard by a circuit judge, under the authority of the Presiding Judge
- 3) Class 3 includes all other offences, such as kidnapping, burglary, grievous bodily harm and robbery, which are normally tried by a circuit judge or recorder

## INDICTMENTS

Indictable criminal offences comprise the most serious crimes that are required to be heard before the Crown Court. An indictment is the statement in writing of the charge(s) on which it is proposed to try the accused. It takes the form of a written accusation (or more than one such accusation) charging the accused with an offence. The indictment is a key document in criminal proceedings. It contains the written charges by which certain offences are brought before the Crown Court on a case for trial and is added to as the trial and appeal processes progress. Upon completion, the indictment forms a concise summary of the significant events and decisions that took place during the trial and also

indicates whether defendants followed an appeal process if found guilty. It usually comprises a small indictment (Form 5089) and may include the following data:

- Defendant's name
- Defendant's gender
- Whether bail or custody granted
- Date committed for trial
- Conviction date
- Sentence date
- Trial dates (from/to)
- Identity of the firm of shorthand writers
- Name of the Crown Court to hear the case
- Judge's name
- Defence Counsel names of barristers
- Defence Counsel names of solicitors
- Prosecution Counsel names of barristers
- Prosecution Counsel names of solicitors
- Offences charged to the defendant listed as separate 'counts'.
- Defendant's pleas to charges
- Jury's verdict
- Sentence or Order
- Appeal details (date of appeal and whether grounds for appeal were granted or refused)

Form 5089 is usually attached to a larger Statement of Offences sheet entitled 'The Queen against [*defendant's name*]' that repeats much of the information on the indictment and is also known as the Copy Indictment (Form 5088). This larger sheet often includes a list of the witnesses who were called at the trial on its reverse side, usually added in long hand.

A draft (bill of) indictment only becomes an 'original' once it is signed by the Clerk of the Court. It is the 'original' indictments or court record indictments that are preserved in their entirety at The National Archives. Copies of these indictments are also likely to appear on Crown Court case records.

For the majority of paper indictments, each court created a number of loose-leaf binders per year to hold the indictments. The indictments were filed in numerical order by year and then by case number as the cases were received into court: e.g. 73-1750 denoting the year 1973 and the 1750<sup>th</sup> indictment of that year. There is no means of referencing key information contained in the indictments such as the type of offence, name of defendant(s) or outcome of the case. It is estimated that since 1972 over 80,000 indictments have been produced each year by the Crown Court in England and Wales.

Some indictments at some courts have been indexed, and these indices are held at the Ministry of Justice. To request a search of the indices, which may help identify an indictment at The National Archives, please contact the Departmental Records Officer via email to [CentralArchivesRecordsRequests@hmcts.gsi.gov.uk](mailto:CentralArchivesRecordsRequests@hmcts.gsi.gov.uk).

## 5.2 **Court of Appeal (Criminal Division)**

The Court of Appeal Criminal Division, headed by the Lord Chief Justice and the Vice-President of the Criminal Division, hears appeals in criminal matters from the Crown Court. The bench usually consists of a Lord or Lady Justice and two High Court judges.

The Court deals with appeals by defendants against their Crown Court conviction or sentence. It also deals with cases referred by the Attorney General if the Attorney considers that the sentence given at the Crown Court was “unduly” lenient. The Court of Appeal Criminal Division Court has the power to quash convictions on the facts, on a point of law or on any other ground that appears sufficient, and to reduce sentences. The Court of Appeal also has the right to order a new trial.